IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5343 OF 1997

Sardar Hasan Sanadi, .. Petitioner

Vs

State of Maharashtra & ors. .. Respondents

Mr A.V.Bukhari, for the petitioner.

Mr R.M.Patne, AGP, for respondent nos 1 and 2.

Mr Y.R.Naik, for respondent no.3

None for respondent no.4.

WITH

WRIT PETITION NO.5378 OF 2000

Sardar Hasan Sanadi, .. Petitioner

Vs

State of Maharashtra & ors. .. Respondents

Ms B.Patil, for the petitioner.

Mr R.M.Patne, AGP, for respondent no. 1.

Mr P.Naik, for respondent no.2

None for respondent no.3.

CORAM : V.G.PALSHIKAR, Ag.C.J., &

D.B.BHOSALE,J.

DATE : 23.11.2005.

ORAL JUDGMENT : (PER D.B.BHOSALE, J.)

1. Heard the learned counsel for the parties.

2. Parties in both the writ petitions are common. The facts and the question involved are also similar. Hence, both the writ petitions are being disposed of by common Judgment.

3. The petitioner, in Writ Petition No.5343 of 1997 has impugned the order dated 31.5.1997 passed by the Caste Certificate Scrutiny Committee - respondent no.2 (for short "Scrutiny Committee") invalidating the claim of the petitioner that he belongs to "Sikkalgar" caste which is declared as Nomadic Tribes. In Writ Petition No.5378 of 2000, the petitioner has impugned the orders of reversion dated 29.1.1998 and 30.6.1998 and the consequential action taken in pursuance thereof by respondent no.3-Bank after the caste claim of the petitioner was invalidated by the Scrutiny Committee.

4. The petitioner joined the services of respondent no.3- Bank as Clerk in 1972. The petitioner has set out in the petition that in 1978 he came across the Government Resolution dated 21.11.1961, by which the caste "Sikkalgar" was notified as Nomadic Tribes. He, therefore, obtained the caste certificate dated 27.12.1978 declaring him as belonging to Sikkalgar caste. It appears that the petitioner was thereafter

promoted on two occasions on the basis of his caste certificate recognising him as belonging to Nomadic Tribes. Last such promotion was on 25.4.1996 to the post of District Recovery Officer. It appears that one Shri Patil, who was denied promotion, and some other employees made a complaint to respondent no.3-Bank that the petitioner does not belong to Sikkalgar caste and the benefits thereof given to him are wrong and illegal, resulting in forwarding the petitioner's certificate issued by the Tahasildar on 27.12.1978 to the Scrutiny Committee. The Scrutiny Committee conducted the enquiry after following due procedure and vide its order dated 31.5.1997 invalidated the caste claim/certificate of the petitioner and declared that the promotions of the petitioner based on the caste certificate were illegal. In pursuance of the order of the Scrutiny Committee, the petitioner was reverted and as a consequence thereof the respondent no.3-Bank sought to recover the excess payment made over to the petitioner. However, this Court granted stay to the orders of recovery dated 30.9.1998 and 2.12.1998 while admitting Writ Petition No.5378 of 2000.

5. It is against this backdrop, the petitioner has impugned the order of the Scrutiny Committee as also the consequential orders passed by the respondent-Bank. The

only submission advanced by the learned counsel appearing for the petitioner is that the order of the Scrutiny Committee was without jurisdiction and hence liable to be set aside. It was contended that the Scrutiny Committee had no authority, power and jurisdiction to scrutinise the caste claim of the petitioner, an employee of respondent no.3-Bank, since such power was conferred on the Scrutiny Committee for the first time by Government Resolution dated 11.6.1998. The caste certificate of the petitioner was referred to the Scrutiny Committee which pronounced its order on 31.5.1997. It is clear from the dates aforestated that the Scrutiny committee had no jurisdiction to scrutinise the caste claim of the petitioner since he was an employee of respondent no.3-Bank which was not covered by the earlier Government Resolution conferring jurisdiction on the Scrutiny Committee to scrutinise caste claims of the Government employees only. Heavy reliance was placed upon the Judgment of this Court in **Bhaskar Sitaram Koli Vs, Executive Magistrate, Thane and ors in Writ Petition No.1414 of 1995, pronounced on 1.12.2003** by the Division Bench of this Court (V.G.Palshikar and S.C.Dharmadhikari, JJ.). The contention that the law laid down by this Court in Bhaskar Sitaram Koli case squarely applies to the fact of the instant petition has not been disputed by the

learned AGP. None appeared for respondent no.3-Bank.

6. In **Bhaskar Sitaram Koli** case, the petitioner therein was an employee of the respondent Bank. The order of the Scrutiny Committee was passed on 4.2.1995. Keeping that in view, this Court examined the material produced before it and in paragraph 8 held thus:-

> 8. It is not disputed before us by the learned counsel appearing for the parties that the respondent no.2 Committee is a committee being set up by the State of Maharashtra, it will not get power, authority and jurisdiction to scrutinise and validate the caste claims of employees appointed to Reserved posts in Central Government establishments and undertakings merely on the strength of the notification issued by the Government of India. It is further conceded that depending upon the issuance of the notification by the Central government a separate notification conferring power on the respondent no.2 committee will have to be issued by the State Government. That was not issued admittedly till 11th June,1998."

It is true that the Government of India, through its Ministry of Finance, in 1994 had directed that cases of verification of caste certificates submitted by the employees of Banks be referred to the Scrutiny Committee constituted by the State of Maharashtra. However, Government of Maharashtra till 11.6.1998 did not pass any resolution thereby widening the scope and jurisdiction of the Caste Scrutiny Committee who

entertained the reference made by the Government of India or instrumentality created by it. Such power was conferred only on 11.6.1998 vide Government Resolution dated 11.6.1998, by which the Scrutiny Committee was empowered to verify caste certificates/claims of the employees/officers of the Central Government and the Undertakings of the Central Government appointed against the reserved posts. Keeping this in view and considering the Judgment of this Court in **Bhaskar Sitaram Koli** case, learned counsel for the petitioner did not advance any other submission inasmuch as it was not necessary in view of the clear position of law settled by the aforesaid Judgment. The writ petitions deserve to succeed only on the ground that the order of the Scrutiny Committee in the instant petition, was without jurisdiction and is liable to be set aside. The orders passed by the respondent-Bank as a consequence of the order of the Scrutiny Committee also deserve to be set aside. In the result, the petitions succeed. Rule is made absolute in terms of prayer clause (a) in both the writ petitions. It is open for the respondent-Bank to forward the caste certificate of the petitioner, if so advised, to the Scrutiny Committee afresh. No order as to costs.

(V.G.PALSHIKAR, AG.C.J.)

(D.B.BHOSALE, J.)